IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 28784 of 2007(B)

PETITIONER:

CHAMPAK FINANCE,
NO.17, VALKUNDA VATHIYAR STREET,
CHENNAI, REP. BY ITS POWER OF ATTORNEY
HOLDER K.M.TAJUDDEEN.

BY ADV. SRI.KKM.SHERIF
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL

RESPONDENTS:

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1. THANKACHAN.C., 59 YEARS,
S/O SCARIA, THADATHUVILA VEEDU,
PERUMPUZHA, KOLLAM.

2. ANTO JAYARAM,
S/O JAYARAM, VIJAYA BHAVAN,
VELIYAM, DAYA CONSTRUCTIONS,
DALMIYA JN., PERUMPUZHA, KOLLAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.28784 of 2007

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Dated this the 28th day of September, 2007.

JUDGMENT

This Writ Petition is filed with a prayer to direct the Additional Subordinate Judge, Kollam to hear and dispose of I.A.No.2611 of 2006 in the light of Ext.P6 judgment. The writ petitioner filed a claim petition, Ext.P2 (I.A.No.2611 of 2006) under Order 38 Rule 8 of C.P.C. and it was dismissed by the trial court. Against the same, he preferred A.S.No.123 of 2007 and the appellate court by its judgment dated 16.6.2007 allowed the appeal and set aside the impugned order and remanded the matter to the trial court for fresh consideration after considering the compromise petition. Even if the suit is disposed of, since the claim petition relates to the right of a third party, who is not a party to the suit and as he has come forward with an application to adjudicate his right, the court is bound to consider the same, especially in the light of Ext.P6 judgment and dispose it of in

accordance with law.

2. So, I direct the Additional Subordinate Judge, Kollam to consider the claim application as directed in Ext.P6 judgment. It may be considered and disposed of within a time frame of two months.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.

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